

ZONING BOARD OF APPEALS

Public Hearing MINUTES

Monday, August 28, 2000
7:00 P.M., Jordan Small School Cafeteria
423 Webbs Mills Road, Raymond, Maine

ATTENDANCE: Peter Leavitt, Chairman; Robert Fey; Michael Higgins; Lawrence Murch; Aurel Gagne; Jim Stephenson; and Jack Cooper, Code Enforcement Officer.

Call to order.

Peter Leavitt called the meeting to order at 7:02 p.m.

Consideration of previous minutes dated July 31, 2000.

MOTION: Michael Higgins motioned to approve the minutes of July 31, 2000 as written. Seconded by Aurel Gagne.

VOTE: Unanimous.

3. Items 3 – 22 Indian Point Campground

DISCUSSION: Peter Leavitt clarified the miscommunication regarding the tabling of the Indian Point applications. Mr. Leavitt explained that the town attorney, Geoff Hole had spoken with Mr. Lemoine, attorney for the McCrillis', and that the two attorneys had come to the determination that it would be best to table the appeals until the September meeting. Mr. Lemoine was to get in touch with Indian Point; however, the Board is required to vote on whether or not to table the issues. Mr. Leavitt then explained the appeals process whereby, following a decision by the Board, the appellants could proceed either as a group or individually to seek relief from the court system. Mr. Leavitt indicated that the State has an issue in this matter and that the DEP must also be satisfied. Mr. Leavitt stated that the Town of Raymond and the Zoning Board of Appeals must uphold the ordinance as intended. Mr. Leavitt further explained that last week Mr. Baker of the DEP did not have an opportunity to consult with the Attorney General's Office. Mr. Leavitt indicated that the Town Attorney and Mr. Lemoine had determined that rather than issue rulings at tonight's meeting, it would be beneficial for everyone concerned to wait for the DEP to consult with the Attorney General. Bob McCrillis of Indian Point explained that Mr. Lemoine doesn't represent everyone, he only represents the McCrillis'. Mr. McCrillis also indicated that a poll was conducted which indicated that most Indian Point residents were interested in a consent agreement. Mr. Leavitt responded by explaining the issues involved with a consent agreement and DEP consultation. Mr. McCrillis questioned the date set for grandfathered lots which he thought to be 1/1/89. Mr. Cooper responded that it would be up to the DEP and the attorneys to address that issue.

Don Fellows, Indian Point Association President, requested an overall picture of the situation so that he can give a report at the Association meeting being held next week. Mr. Fellows also questioned the possibility of other violations that may not yet have been cited. Mr. Leavitt responded by requesting a clear definition of where things exist on the lots today using the following examples: a.) Sizes of RVs;

Distance from the water;

Graphics;

Notarized documents;

Square foot coverage of lots.

Mr. Leavitt also expressed that he feels the Town is not without culpability in this matter.

An Indian Point resident questioned what would happen if they were unable to attend the September meeting as most applicants are summer residents. Mr. Leavitt suggested that the applicants send a letter to the Board authorizing another individual to represent them. Peter Giroux requested a definition of structure vs. RVs. Mr. Cooper responded that according to Rich Baker of the DEP, if an RV is not a structure then it couldn't have a deck or sunroom on the property. Mr. Cooper also stated that every structure must be 100' from the watermark.

Mr. Leavitt explained that the Board is trying to find a solution and expedite the process. Mr. Leavitt made

reference to the "duck test" and stated that the structures are beautiful and that he considers them to be seasonal dwellings.

Mr. McCrillis asked what the Board considered a grandfathered date. Mr. Leavitt responded that the Board hasn't discussed this but that generally it was thought to be prior to the establishment of the condominium association.

A discussion followed regarding evidence, the 30% expansion rule, and the four criteria of hardship required for a variance.

Mr. Fontaine of Indian Point noted that Indian Point had donated a clubhouse to the Raymond Fire Department and wouldn't that count as points with the Town and if so, they need them now.

Joy Giroux, Indian Point, named Birch Point and Point Sebago as examples of campgrounds having RVs with additions. Mr. Leavitt responded that he still felt Indian Point was unique.

MOTION: Peter Leavitt motioned to table Agenda items 3 – 22 to the September 25, 2000 meeting of the Zoning Board of Appeals. Seconded by Larry Murch.

DISCUSSION: Mr. McCrillis voiced his concerns with the time frame. Mr. Leavitt responded that he would personally try to expedite the matter and suggested applicants appoint a representative if unable to attend the meeting.

Mr. Putnam expressed concerns over the possibility of fines being imposed. Mr. Cooper responded that the Board has the authority to allow 30 days or 6 months to comply before a fine would be imposed. Mr. Fey stated that the Board would be flexible.

VOTE: Unanimous.

4. Richard & Concetta Oliver Map 21 Lot 20 54 Notched Pond Rd.

Requesting a lot setback reduction.

DISCUSSION: Mr. & Mrs. Oliver were present and addressed the Board with their request for a lot setback reduction of 6' on each side. Mr. Oliver indicated that the current structure would be removed and the new structure placed 100' from the water.

Mr. Leavitt explained that four points of hardship were not required as the request is for a lot setback reduction. Mr. Leavitt noted the letters submitted from two abutters in favor of the request. Mr. Leavitt also explained that the current structure is in disrepair and is located within the 100' setback and would be removed. Mr. Leavitt stated that he was in favor of granting the request especially with the supporting letters from abutters.

MOTION: Robert Fey motioned to approve the request for sideline setback reduction, on both sides, not to be less than 14'.

VOTE: Unanimous.

5. Mark & Tammy Acker Map 49 Lot 1 70 Main Street

Request for continuation of previous variance to operate a machine shop dated 7/24/84.

DISCUSSION: Mr. Acker was present and explained to the Board his plans to sell the property to someone who wants to use this building as a machine shop as he has for the past 20 years. Mr. Acker also explained that two of the conditions of sale are an environmental study and Appeals Board approval to continue to use the building as a machine shop. Bob Martin, potential buyer, was present and explained to the Board his plans to use the 2500 sq. ft. workshop. Mr. Martin currently owns Atlantic Precision and wants to start a new business with his son. Mr. Martin explained that he would use CNC machines, which are quiet and environmentally friendly. Mr. Gagne stated that the approval would contain the same 7 guidelines as previously approved in 1984. Mr. Acker clarified that item 1 had already been met as the existing shed was torn down. Mr. Gagne clarified that, if sold again, the new buyer would have to come before the Appeals Board. Bob Martin stated that the maximum number of non-family employees would not exceed 6. Mr. Fey asked what type of customer the shop would service. Mr. Martin responded that his customers would include the aero space and semi conductor industry. Mr. Leavitt addressed the issues of hardship stating that he felt the previous ZBA had found that the four points had been met on two separate occasions and that he would defer to the decision of the previous Board. Mr. Leavitt then read through the conditions listed in the 1984 minutes as follows:

The old shed will be removed; (Done)

The maximum number of full or part-time non-family employees shall not exceed 6;

The machine shop must be operated by a resident of the property. It cannot be rented to an outside party.

Working hours shall be in the daytime from Monday through Saturday;

There shall be no signs posted on the property;

Any further physical expansion of the business would be at a new location;

In the event the property and buildings are sold, this permit to operate a machine shop becomes invalid.

MOTION: Michael Higgins motioned to approve the request for continuation of the variance with the conditions as stated. Seconded by Larry Murch.

VOTE: Unanimous.

Other business.

a.) Status of Indian Point – Mr. Cooper stated that he thought it could not be discussed outside of public hearing. Mr. Leavitt responded that no consensus could be reached but that information could be discussed. A discussion followed regarding clarification of the status of Indian Point. Mr. Leavitt stated that he had met with Jack Cooper, Nathan Poore, Geoff Hole, Town Attorney, and the Board Secretary regarding Indian Point. Mr. Higgins stated that he doesn't want to table another month and suggested that a consent agreement was needed or that the Board take each case and make a decision. Mr. Cooper suggested requesting a survey for each lot be a condition in the consent agreement. Mr. Leavitt suggested the Board members mail their input on the matter and the consent agreement to Jack Cooper who would then forward the information to Nathan Poore and Geoff Hole, Esq. Mr. Leavitt requested Jack Cooper follow up with Rich Baker. Mr. Leavitt stated that he would submit a letter to the Board members updating them on the status of Indian Point after information had been gathered.

Adjourn.

MOTION: Larry Much motioned to adjourn. Seconded by Jim Stephenson.

VOTE: Unanimous.

ADJOURNMENT: Peter Leavitt adjourned the meeting at 8:17 p.m.

There will be a site walk on Sunday, September 17, 2000 at 10:00 a.m. at the Town Office followed by a public hearing Monday, September 25, 2000 at 7:00 p.m. in the Jordan Small School Cafeteria.

Respectfully submitted,

Elisa A. Trepanier

Recording Secretary